

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

Case No.: 5:21-cv-59

KELLY FANELLO, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
McLANE COMPANY, INC., )  
 )  
Defendant. )  
\_\_\_\_\_ )

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**DEFENDANT’S NOTICE OF REMOVAL**

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DEFENDANT MCLANE COMPANY, INC., by and through undersigned counsel, respectfully removes the above entitled action from the Superior Court of Catawba County, North Carolina, to the United States District Court for the Western District of North Carolina, pursuant to 28 U.S.C. §§ 1332 and 1441. In support of this Notice of Removal, Defendant McLane Company, Inc. states as follows:

1. This action is being removed to Federal Court based on diversity of citizenship between the parties and an amount in controversy greater than \$75,000.00.
2. On March 8, 2021, Plaintiff filed a Complaint in the Superior Court of Catawba County, North Carolina, styled “*Kelly Fanello v. McLane Company, Inc.*” that was assigned Civil Action File No. 21-CVS-577 (“State Court Action”). Plaintiff’s claim for relief against Defendant in the State Court Action is for negligence.

3. Defendant was served with the Summons and Complaint on March 15, 2021. Therefore, this Notice is being filed within 30 days of the date of service in the State Court Action and is timely pursuant to 28 U.S.C. § 1446(b).

4. The United States District Court for the Western District of North Carolina has original jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1332(a) and it may be removed by Defendant pursuant to 28 U.S.C. § 1441(a) and (b) for the following reasons:

- a) At the commencement of this action Plaintiff was a resident of the State of New York;
- b) At the commencement of this action Defendant was a Texas corporation with a principal place of business in Temple, Texas;
- c) The matter in controversy between Plaintiff and Defendant was, at the commencement of this action, one in which complete diversity of citizenship existed;
- d) The amount in controversy between the Plaintiff and Defendant in this action, exclusive of interest and costs, exceeds \$75,000.00, on information and belief;
- e) Therefore, Defendant McLane Company, Inc. files this Notice of Removal of this action from Catawba County Superior Court to the United States District Court for the Western District of North Carolina.

5. Copies of all process, pleadings, and orders served upon Defendant in the State Court Action are attached hereto as “Exhibit A”.

WHEREFORE, Defendant McLane Company, Inc. respectfully requests that this action be removed from the Superior Court of Wake County, North Carolina to the United States District Court for the Western District of North Carolina.

Respectfully submitted, this 8<sup>th</sup> day April, 2021.

By: s/ Edward E. Coleman III  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system and mailed the same via United States Postal Service, first-class, postage prepaid, and addressed to the following counsel of record:

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*Counsel for Plaintiff*

This the 8<sup>th</sup> day of April, 2021.

By: s/ Edward E. Coleman III  
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